

DELIVERY by email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

February 29, 2024

File No.: 990618645

Nancy Marconi, Registrar  
Ontario Energy Board  
2300 Yonge Street, PO Box 2319  
Toronto, ON M4P 1D4

Dear Ms. Marconi,

**RE: Early Access Submission  
Courey Corporation & Middle Road Farms Limited  
EB-2022-0285**

---

Please find attached the submissions of Courey Corporation and Middle Road Farms Limited to the Enbridge Gas Early Access Application.

Yours Truly,

**LEGAL FOCUS LLP**

**Stephen E. Yoker**  
SEY/jd

cc: Z. Crnojacki ([Zora.Crnojacki@oeb.ca](mailto:Zora.Crnojacki@oeb.ca))  
L. Murray, OEB Counsel ([Lawren.murray@oeb.ca](mailto:Lawren.murray@oeb.ca))  
H. Ginis, Technical Manager, leave to construct applications ([haris.ginis@enbridge.com](mailto:haris.ginis@enbridge.com))

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** an application by Enbridge Gas Inc. for an order authorizing entry onto certain properties to complete surveys and examinations that are necessary for fixing the site of the hydrocarbon line that it has proposed to construct in its application for leave to construct the Project. (EB-2022-0157)

---

**Enbridge Gas Inc. Panhandle Early Access Application**

**Courey Corporation and Middle Road Farms Limited Argument**

---

**February 29, 2024**

## **Application**

Via application dated June 16, 2023, Enbridge Gas Inc. ('Enbridge Gas') seeks an order authorizing entry onto properties ("the Properties") owned by Courey Corporation and Middle Road Farms Limited, collectively ("Courey Corporations") to complete surveys and examinations that are necessary fixing for the site of the hydro carbon line that it has proposed to construct in its application for leave to construct Project, which is currently before the OEB (EB-2022-0157).

On December 8, 2023, Enbridge Gas stated it was seeking an OEB decision regarding the early access application by no later than March 29, 2024. The stated purpose of the early access application was expanded to read "in order to carry out environmental studies as well as engineering examinations and surveys including legal and civil surveys required to fix the precise location of the Project and to obtain necessary permits and approvals for the Project, including Archaeological and Natural Heritage Studies, Terrestrial Studies, Aquatic Studies, Hydrological Investigations, Geotechnical Investigations and Legal and Civil Surveys. The need for access by April 1, 2024 is specifically related to the activities regarding Archaeological and Natural Heritage Studies."

## **Courey Corporations' Response**

As at the date of this submission, the OEB has not rendered a decision regarding the leave to construct Project application. Enbridge Gas states in its correspondence of December 8, 2023, such decision is anticipated by mid-March 2024. In the absence of a decision granting leave to construct, access to the subject properties is premature.

Should leave be denied, access becomes a moot point. Should the leave to construct application be approved, a basis will be established for the extensive testing proposed in the early access application. In this instance, due consideration must be given to the considerable impact the extensive testing and investigation methods will have on farming

operations normally conducted on the properties. The nature and extent of impact will be predicated on the point in the farming season that the testing and investigation is to occur. In the absence of particulars including fixed dates (as opposed to windows of time), hours of attendance, and specific activity to be performed in relation to the requested surveys and examinations, Courey Corporations cannot reasonably plan any farming activities normally associated with the properties. As a consequence, it is expected that should early access be granted, significant farming losses will occur, notwithstanding the fact that the OEB has not yet reached a decision on the leave to construct application.

It should further be observed that the Properties remain wholly and exclusively within the ownership and control of the Courey Corporations, no steps toward expropriation having been taken. The early access application, if granted, will deprive the Courey Corporations of farming revenue with no assurance that such losses will be offset within the context of an expropriation having regard to the fact that no such process has been initiated.

In all of the circumstances, access for environmental study and the engineering examination and surveys should only be granted at such time as leave to construct is granted and it is understood at what stage in the farming season negative impacts on Courey Corporations' farming operations shall be brought to bear.

All of which is respectfully submitted.